

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-096002

08/06/2012

HONORABLE EMMET RONAN

CLERK OF THE COURT
T. Soto
Deputy

C A C H, L L C

ELIZABETH A HIGGINS

v.

LIZBETH H PERRY

KENNETH B VAUGHN

SCOTT M THEOBALD

MOTION FOR SUMMARY JUDGMENT FILED

The Court received and reviewed Plaintiff's Motion for Summary Judgment. Defendant has not filed any response to the Motion.

Plaintiff has made a prima facie showing that it is entitled to judgment on the issue. Defendant may not simply rest on the pleading, but must show by competent evidence specific facts that create a genuine issue of fact for trial. A.R.C.P., Rule 56[e] clearly provides that when a motion for summary judgment has been filed and appropriately supported, "...an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits...must set forth specific facts showing that there is a genuine issue for trial." Defendant has failed to do so. By failing to do so, Defendant has waived any procedural or evidentiary arguments or objections that could have been made in response to the motion.¹

¹ *Johnson by Johnson v. Svidergol*, 157 Ariz. 333, 335 [App. 1988]; *Kelly v. NationsBanc Mortgage Corp.*, 199 Ariz. 284, 287 [Sup. 2000].

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The Court having reviewed the motion does find that there is no genuine issue as to any material fact and further that the Plaintiff, the moving party, is entitled to judgment as a matter of law as to the matters addressed in the motion.

IT IS ORDERED granting Plaintiff's Motion for Summary Judgment.

IT IS FURTHER ORDERED that Plaintiff shall submit a proposed form of judgment in conformity with this Court's prior order and in conformity with A.R.C.P., Rule 58.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.